

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Yoef, Inc.	
t/a Stanton Liquors	Protest
1044 Bladensburg Road, NE	Hearing
Retailer A - ANC-5D	(Status)
License No. 71601	
Case #15-PRO-00038	

(Application to Renew the  
License)

June 24, 2015

The Alcoholic Beverage Control Board  
met in the Alcoholic Beverage Control Hearing  
Room, Reeves Building, 2000 14th Street, N.W.,  
Suite 400S, Washington, D.C. 20009, Chairperson  
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

1 P-R-O-C-E-E-D-I-N-G-S

2 9:52 a.m.

3 CHAIRPERSON MILLER: The next case is  
4 another Protest (Status) Hearing case, Case No.  
5 15-PRO-00038, Stanton Liquors located at 1044  
6 Bladensburg Road, N.E., License No. 71601, in  
7 ANC-5D. And this is an application to renew a  
8 license as well.

9 When you are ready, if you could  
10 identify yourselves for the record?

11 MS. HIRAO: Sure. Risa Hirao. Good  
12 morning, Board Members. I'm with the Law Firm of  
13 Pascal & Weiss representing the applicant.

14 CHAIRPERSON MILLER: Okay.

15 MR. HABTESELASSIE: Yonathan  
16 Habteselassie, owner of Stanton Liquors.

17 CHAIRPERSON MILLER: Could you repeat  
18 your last name, sir?

19 MR. HABTESELASSIE: Habteselassie.

20 CHAIRPERSON MILLER: Oh, okay. Got  
21 it. Thank you.

22 MS. HIRAO: Shall we spell it out?

1 CHAIRPERSON MILLER: Although we  
2 didn't have the other side introduce themselves  
3 yet.

4 MS. HENDERSON: Kathy Henderson, ANC-  
5 5D05, a group of nine.

6 MS. MILES-HARRISON: Oh, I'm sorry.  
7 Darlene Miles-Harrison, a member and resident of  
8 5D02.

9 MS. HENDERSON: And also, good member,  
10 Board Members. I mean, good morning, Board  
11 Members.

12 MEMBER RODRIGUEZ: Good morning.

13 CHAIRPERSON MILLER: So, Ms.  
14 Henderson, you are with the ANC?

15 MS. HENDERSON: Yes.

16 CHAIRPERSON MILLER: And I'm sorry,  
17 what's your name again?

18 MS. MILES-HARRISON: Darlene Miles-  
19 Harrison.

20 CHAIRPERSON MILLER: Okay. And you  
21 are with who?

22 MS. MILES-HARRISON: Beg your pardon?

1                   CHAIRPERSON MILLER: Are you with the  
2 ANC as well?

3                   MS. HENDERSON: No, she is a citizen  
4 member.

5                   MS. MILES-HARRISON: Citizen member.

6                   CHAIRPERSON MILLER: You're a citizen  
7 member of the group of nine? Okay. I'm sorry.  
8 Ms. Henderson, are you part of the group of nine?

9                   MS. HENDERSON: Yes.

10                  CHAIRPERSON MILLER: You are part of  
11 the group of nine. So you are not representing  
12 the ANC. Okay. All right.

13                  MS. HENDERSON: However, I don't see  
14 my colleague here and if necessary, I am the  
15 Chairperson for ANC-5D, so I am prepared to  
16 represent that group.

17                  MS. HIRAO: Excuse me, Madam Chair?  
18 The ANC hasn't protested in this case.

19                  CHAIRPERSON MILLER: Right. I don't  
20 see them as a party, so that's --

21                  MS. HENDERSON: Okay.

22                  CHAIRPERSON MILLER: -- that's not an

1 issue, yes. Okay.

2 MEMBER ALBERTI: Ms. Miller? May I?  
3 I'm confused.

4 CHAIRPERSON MILLER: Sure.

5 MEMBER ALBERTI: May I ask who is  
6 representing the group of seven?

7 MS. HIRAO: The group of seven was  
8 represented by Mr. Lee.

9 MEMBER ALBERTI: And is he present  
10 today?

11 MS. HIRAO: We have not seen him  
12 outside of the hearing room.

13 MEMBER ALBERTI: I just wanted to  
14 establish that.

15 MS. HIRAO: Yes.

16 MEMBER ALBERTI: Okay. Thank you.

17 CHAIRPERSON MILLER: Okay. Has  
18 anybody talked to Mr. Lee to know where he is?

19 MS. HIRAO: He was aware that today --  
20 there is a Status Hearing today and after the  
21 June 5th -- I think it was June 15th mediation  
22 session, we have been exchanging emails as far as

1 proposed settlements. And the status hearing  
2 date was mentioned during the mediation session.

3 CHAIRPERSON MILLER: Okay. So you  
4 don't have any information as to whether he is  
5 planning to come this morning or not?

6 MS. HIRAO: We don't know.

7 CHAIRPERSON MILLER: Do you all?

8 MS. HENDERSON: I don't have any  
9 information regarding that.

10 CHAIRPERSON MILLER: Okay.

11 MS. HENDERSON: I hope that he is,  
12 but --

13 CHAIRPERSON MILLER: Okay. So I think  
14 what I would like to do is --

15 MS. HIRAO: There is a pending Motion  
16 to Dismiss the group of nine.

17 CHAIRPERSON MILLER: Right. We are  
18 aware of that. Right.

19 MS. HIRAO: And also for this  
20 morning's Status Hearing, Mr. Lee was required to  
21 bring one more person to show -- to fulfill the  
22 requirement for the group of five.

1                   So since both parties are not -- or  
2                   Mr. Lee is not here and also an additional  
3                   individual to fulfill the group of five  
4                   requirement for the group of seven, I'll make an  
5                   oral Motion to Dismiss their protest.

6                   CHAIRPERSON MILLER: Okay. So as  
7                   that's a somewhat major event, which you are in  
8                   order to make, I think what I would like to do is  
9                   just -- all these cases are scheduled for 9:30.

10                  I would like to, if you could, pass on  
11                  this case for a few minutes and take the Show  
12                  Cause Hearing Status cases ahead of you just to  
13                  see if Mr. Lee comes in within the next --

14                  MS. HENDERSON: We would appreciate  
15                  that, Chairman Miller.

16                  CHAIRPERSON MILLER: What?

17                  MS. HENDERSON: We would appreciate  
18                  that.

19                  CHAIRPERSON MILLER: Okay. All right.  
20                  Thank you. So we will recall your case.

21                  MS. HIRAO: Okay.

22                  (Whereupon, the above-entitled matter

1 went off the record at 9:57 a.m. and resumed at  
2 10:16 a.m.)

3 CHAIRPERSON MILLER: Okay. We are  
4 going to recall Case No. 15-PRO-00038, Stanton  
5 Liquors located at 1044 Bladensburg Road, N.E.,  
6 in ANC-5D.

7 MS. HIRAO: Risa Hirao for the  
8 application.

9 MS. HENDERSON: Kathy Henderson, ANC-  
10 5D05.

11 CHAIRPERSON MILLER: Okay. So we had  
12 passed this case in order to see if Mr. Lee was  
13 on his way. Has he shown up?

14 MS. HENDERSON: No.

15 CHAIRPERSON MILLER: Okay. And has  
16 anybody talked to him?

17 MS. HENDERSON: I did make an attempt  
18 to call Mr. Lee and I was unsuccessful in  
19 contacting him.

20 CHAIRPERSON MILLER: Okay. All right.  
21 I believe the applicant has some motions to argue  
22 before us. Is that correct?



1 MS. HIRAO: Yes, Madam Chair. This  
2 morning I requested the Board to consider my oral  
3 Motion to Dismiss the group represented by Mr.  
4 Lee known as the group of nine. He has not  
5 appeared for the Status Hearing nor has he  
6 presented an additional individual to fulfill the  
7 requirements to have his group considered as a  
8 group of nine. I mean, a group of five.

9 CHAIRPERSON MILLER: He was at the  
10 Roll Call?

11 MS. HIRAO: At the Roll Call there  
12 weren't sufficient people.

13 CHAIRPERSON MILLER: Right. Okay.

14 MS. HIRAO: And he was instructed at  
15 Roll Call and again during mediation to bring one  
16 additional person to the Status Hearing. And  
17 here we are at the Status Hearing and both of  
18 individuals aren't here.

19 CHAIRPERSON MILLER: Okay. Ms.  
20 Henderson, do you have anything to say to that?

21 MS. HENDERSON: With regard, if it's  
22 possible, I mean, I would ask that the Board

1 allow me to serve as a proxy for -- but I don't  
2 think your rules are going to allow it.

3 CHAIRPERSON MILLER: I don't think so.

4 MEMBER ALBERTI: No.

5 MS. HENDERSON: I was trying to -- I'm  
6 just trying to think of something to --

7 CHAIRPERSON MILLER: That's kind of  
8 you.

9 MEMBER RODRIGUEZ: Right.

10 MS. HENDERSON: -- protect the  
11 standing of the group of seven.

12 CHAIRPERSON MILLER: Okay. The only  
13 thing that can protect them is a Motion for  
14 Reconsideration.

15 MS. HENDERSON: Yes. So I'll withdraw  
16 my comments.

17 CHAIRPERSON MILLER: All right. Thank  
18 you.

19 MS. HENDERSON: But I tried.

20 CHAIRPERSON MILLER: All right. Then  
21 I think, at this point, the status was called for  
22 9:30. It is 10:19 and Mr. Lee has not arrived

1 nor has any of the group of seven nor did they  
2 have a complete group at Roll Call as has been  
3 represented.

4 So in any event, in light of that and  
5 pursuant to our Reg 1603.3, I would move to  
6 dismiss the group of seven as a party for failure  
7 to appear in person or through a designated  
8 representative. It says "that may result in  
9 denial or dismissal of the protest unless, in the  
10 discretion of the Board, good cause is shown for  
11 failure to appear."

12 There has been no good cause shown  
13 here, so I would move to dismiss. Do I have a  
14 second?

15 MEMBER ALBERTI: Second.

16 CHAIRPERSON MILLER: Mr. Alberti  
17 seconded the motion. Does anybody else wish to  
18 speak to that? Okay.

19 All those in favor then of dismissing  
20 the group of seven say aye.

21 ALL: Aye.

22 CHAIRPERSON MILLER: All those

1       opposed? All those abstaining? The motion  
2       passes 6-0-0.

3               The rules provide that a request for  
4       reinstatement with the Board must be filed within  
5       10 days of the dismissal.

6               Okay. Next? Do you have another  
7       motion?

8               MS. HIRAO: Yes. My second motion is  
9       to dismiss the protest represented by Ms.  
10       Henderson. I would like the record to reflect  
11       that she is -- the ANC is not a party to this  
12       protest. I have heard several references of the  
13       ANC during this Status Hearing, so I wanted to  
14       make it crystal clear that the ANC is not a  
15       party.

16               The motion is based on this group of  
17       nine's failure to attend the mediation session  
18       that took place on June 15th. There was,  
19       apparently, no good cause that -- the D.C. ABC  
20       Laws require that if a protestant, you have to  
21       attend the mediation session.

22               Our office was not notified that her

1 absence should be excused.

2 Also her opposition to my motion was  
3 due on the close of business yesterday. I have  
4 not received a copy.

5 CHAIRPERSON MILLER: Okay. Ms.  
6 Henderson?

7 MS. HENDERSON: Thank you, Chairman  
8 Miller and Board Members. First, I would like to  
9 address the issue of the ANC.

10 While the commission did not vote to  
11 protest this, I want the record to reflect  
12 clearly that I am the representative for this  
13 group. I am the commissioner representing ANC-  
14 5D05 and I am the Chairperson representing ANC-  
15 5D, so just in case there is any confusion on  
16 behalf of the applicant or any others, I want  
17 that to be clear.

18 Second, I oppose the applicant's  
19 Motion to Dismiss our group. Apparently there  
20 was some confusion regarding the Roll Call  
21 status. My group appeared. We appeared in good  
22 faith as required. Our members were here. And

1 we are -- we were parties and are parties to  
2 other cases. And I think that there was some  
3 confusion regarding the dates.

4 If you recall and let the transcript--  
5 I would ask that the transcript be checked in  
6 this matter. We went back and forth a number of  
7 times, both sides, to ascertain a date that was  
8 mutually agreeable and it took several tries to  
9 get that. And we did not understand that the  
10 hearing date was the 15th.

11 Additionally, no member --

12 MEMBER SILVERSTEIN: Ms. Henderson?

13 MS. HENDERSON: Yes?

14 MEMBER SILVERSTEIN: You speak of a  
15 Roll Call and a hearing date.

16 MS. HENDERSON: At the Roll Call. The  
17 Roll Call.

18 MEMBER SILVERSTEIN: And, Ms. Hirao,  
19 you are speaking of a mediation session. I want  
20 to make sure we get --

21 MS. HIRAO: Correct, correct. My --

22 MS. HENDERSON: Let me finish.

1 MEMBER SILVERSTEIN: Okay. I --

2 MS. HENDERSON: If I may.

3 MEMBER SILVERSTEIN: -- am confused.

4 MS. HENDERSON: At the Roll Call

5 Hearing, I think there was some confusion

6 regarding the mediation dates that we were

7 exploring. And I wrote down several dates. We

8 did not -- we were not able to focus and

9 ascertain that June 15th was, in fact, the hearing

10 -- the mediation date. We had another date.

11 Furthermore, we did not receive

12 notice. I spoke to Ms. Moreland -- Ms. Imani

13 Moreland. She said she did send us notice. I

14 also spoke with all of the members that were a

15 party to our group. They did not receive any

16 notice. We didn't see -- we did not receive

17 notice that the mediation date was, in fact, held

18 on June 15th.

19 And we expected to come here on

20 another date. So we respectfully ask -- I would

21 argue excusable neglect in this matter and ask

22 that we be reinstated and continue to move

1 forward as properly registered protestants and we  
2 look forward to meeting with the applicant and  
3 their representative to see if we can work this  
4 out to foreclose on, you know, the actual  
5 hearing.

6 MS. HIRAO: Madam Chair, if I may  
7 address her comments?

8 CHAIRPERSON MILLER: Okay.

9 MS. HIRAO: The Roll Call took place  
10 on May 26, 2015, according to a letter issued by  
11 ABRA on May 15th. I have in my files a letter, an  
12 email that was sent to Ms. Henderson, Mr. Lee and  
13 our office from Ms. Imani Moreland dated June 2nd.

14 And that emails sets forth clearly the  
15 dates of critical events for this protest.

16 Mediation, June 15th at 1:00 p.m. Status Hearing,  
17 June 24, 2015 at 9:30. Protest Hearing, July 22,  
18 2015 at 4:30 p.m.

19 Since the June 2nd email sent by ABRA,  
20 we have not heard any -- received any  
21 communication disputing the date of the mediation  
22 date. There was no exchange saying why don't we



1 change the mediation date.

2 Our office set forth on our calendar  
3 we would appear on June 15th for the mediation, so  
4 I don't understand Ms. Henderson's claim that  
5 there were exchanges of changing of dates when  
6 there is a June 2nd email from ABRA clearly  
7 setting forth the mediation date.

8 CHAIRPERSON MILLER: Okay. My  
9 understanding is she said she didn't receive  
10 that. Is that what your representation is?

11 MS. HENDERSON: Yes. And let me  
12 clarify. I'm sorry, ma'am, can you, please,  
13 share your name with me, because I didn't get  
14 your name.

15 MS. HIRAO: Risa Hirao.

16 MS. HENDERSON: Ms. Hirao was not at  
17 the Roll Call Hearing. Mr. Pascal was actually  
18 here. So Ms. Hirao was not present for the  
19 exchange of the dates that we were trying to come  
20 up with to ascertain a mutually agreeable  
21 mediation date.

22 With regard to the emails, I have had

1       conversations, several conversations with Ms.  
2       Moreland and she has, you know, been very  
3       responsive. And I have explained to her that I  
4       have not received her emails. We -- some of her  
5       emails.

6               I did receive emails in another matter  
7       and a protest matter, a Motion to Dismiss matter,  
8       but I haven't received some emails. And we have  
9       talked about possibly them being in my junk file.  
10      I have checked. I don't know what the issue is.  
11      We didn't receive them.

12             CHAIRPERSON MILLER: Okay.

13             MS. HENDERSON: We are here. We have  
14      participated from the beginning in good faith and  
15      we would like to continue. And this hiccup in  
16      our communications, I wouldn't think -- I would  
17      ask, respectfully request that the Board not  
18      penalize the -- our group for acting in good  
19      faith, but still being beset by intermittent  
20      communication issues.

21             And I think had it not been for the  
22      extensive conversation about the different Roll

1 Call dates, it would have been clearer and we  
2 would not have had to rely solely on any  
3 subsequent communications to ascertain that the  
4 hearing date was on the 15th.

5 CHAIRPERSON MILLER: Okay.

6 MS. HIRAO: Clearly she received my  
7 Motion to Dismiss by email. And I used the same  
8 email that Ms. Moreland has transmitted to Ms.  
9 Henderson regarding the --

10 MS. HENDERSON: It's not here.

11 MS. HIRAO: -- Roll Call date.

12 MS. HENDERSON: All right.

13 MS. HIRAO: The mediation date, Status  
14 Hearing and protest dates. So and also --

15 CHAIRPERSON MILLER: Yes, we can't go  
16 back and forth a zillion times. I mean, do you  
17 have something really different you want to add?  
18 I know that your point is that she got notified  
19 by email from Ms. Moreland.

20 MS. HIRAO: The mediation that took  
21 place on June 15th, we spent over an hour going  
22 over terms, issues, concerns. This is an

1 important event. Why do we have to do another  
2 mediation again?

3 CHAIRPERSON MILLER: Okay. Let me ask  
4 you this. What do you mean? You did that at  
5 mediation by yourself?

6 MS. HIRAO: At mediation with Mr. Lee.

7 CHAIRPERSON MILLER: Mr. Lee. Okay.

8 MS. HIRAO: This is a critical event.  
9 And I do not hear one ounce of good cause for her  
10 to be -- proceed with her protest.

11 CHAIRPERSON MILLER: Okay.

12 MS. HIRAO: And also I have not  
13 received the opposition that was due close of  
14 business yesterday. All I'm hearing is an oral  
15 argument which I had no opportunity to prepare or  
16 respond. Doing it on the fly is what other good  
17 attorneys does, but I was -- I should -- I am  
18 entitled to receive an opposition prior to this  
19 hearing to review it.

20 MS. HENDERSON: Chairman Miller, if I  
21 may?

22 CHAIRPERSON MILLER: No. We have

1 other cases.

2 MS. HENDERSON: I understand and I'll  
3 be very brief.

4 CHAIRPERSON MILLER: So there is only  
5 so long.

6 MS. HENDERSON: Ms. Hirao doesn't have  
7 any -- in her emails what she says where she is  
8 convinced that it is clear that we received. She  
9 doesn't have any responses for me, because we  
10 didn't -- I didn't receive them. I don't know  
11 what the communication glitch is, but I do assert  
12 here today that there is one.

13 We would like the opportunity to move  
14 forward. I was told by Ms. Fletcher to be  
15 prepared to make an oral argument today as to why  
16 we were not -- we should not be dismissed and  
17 that is what I'm doing.

18 CHAIRPERSON MILLER: Yes.

19 MS. HENDERSON: And I would ask if Ms.  
20 Hirao needs that in writing, certainly she can  
21 have that before the close of the end of the day.

22 CHAIRPERSON MILLER: I don't think

1       that's necessary.

2                   MS. HENDERSON:   But thank you.

3                   CHAIRPERSON MILLER:   Okay.

4                   MEMBER SILVERSTEIN:   Take it under  
5       advisement.

6                   MEMBER ALBERTI:   Ms. Miller?

7                   CHAIRPERSON MILLER:   Yes?

8                   MEMBER ALBERTI:   May I make a  
9       suggestion?

10                  CHAIRPERSON MILLER:   Yes.

11                  MEMBER ALBERTI:   I suggest that we,  
12       first of all, not dismiss the protestants, but  
13       that we require them to agree on a new date that  
14       occurs before the Protest Hearing, at least one  
15       week ahead of the Protest Hearing and that they  
16       negotiate a new date today before they leave here  
17       and communicate that to this Board.

18                  MS. HENDERSON:   Respectfully, Mr.  
19       Alberti, I would accept.

20                  CHAIRPERSON MILLER:   So --

21                  MEMBER ALBERTI:   That's my suggestion.

22                  CHAIRPERSON MILLER:   -- I would agree,

1 but I would suggest a date earlier than a week  
2 before the hearing, because that's when the --

3 MEMBER ALBERTI: Fine.

4 CHAIRPERSON MILLER: -- protestors  
5 have to -- I mean, our Investigators really --

6 MEMBER ALBERTI: Okay.

7 CHAIRPERSON MILLER: -- have to gear  
8 up.

9 MEMBER ALBERTI: All right.

10 MEMBER RODRIGUEZ: Madam Chair?

11 CHAIRPERSON MILLER: Yes?

12 MEMBER RODRIGUEZ: I agree with Mr.  
13 Alberti's recommendation in order to clear this  
14 matter up and so that the parties have a chance  
15 to be represented before this Board.

16 MEMBER ALBERTI: And I'll defer to you  
17 in terms of how much time you think is --

18 CHAIRPERSON MILLER: Okay.

19 MEMBER ALBERTI: -- needed prior to  
20 the protest.

21 CHAIRPERSON MILLER: Others?

22 MEMBER SHORT: That sounds reasonable

1 to myself.

2 CHAIRPERSON MILLER: Okay. I have to  
3 say that, you know, it's rare, but it does happen  
4 where things don't get transmitted in email. I  
5 don't know why that is, but I recently had an  
6 experience like that, so I also hear what sounds  
7 like an interest and a good faith attempt to  
8 mediate this, so I don't think that it rises to  
9 the level of dismissal.

10 But I would like you all to decide on  
11 a date. I mean, can you --

12 MEMBER ALBERTI: Ms. Miller, can I  
13 just say one thing?

14 CHAIRPERSON MILLER: Yes.

15 MEMBER ALBERTI: I will warn both  
16 parties, this is my opinion, that if you do not  
17 meet on the date agreed to, that I will vote to  
18 dismiss either party. Okay?

19 MS. HENDERSON: And if I may, thank  
20 you very much. We are open to the applicant's  
21 suggestions. We will make ourselves available in  
22 an effort, you know, to smooth over this clear



1 miscommunication and we thank you --

2 CHAIRPERSON MILLER: Okay. I would  
3 like --

4 MS. HENDERSON: -- for your  
5 consideration.

6 CHAIRPERSON MILLER: -- you two to  
7 make a commitment that really you would need to  
8 mediate within the next couple of weeks.

9 MS. HENDERSON: We are ready to do  
10 that.

11 CHAIRPERSON MILLER: Are you ready to  
12 do that?

13 MS. HIRAO: We already mediated on  
14 June 15th.

15 CHAIRPERSON MILLER: Okay. You  
16 already mediated with the party that has been  
17 dismissed.

18 MS. HIRAO: It's like wasted time.

19 CHAIRPERSON MILLER: Okay.

20 MS. HIRAO: And you are --

21 CHAIRPERSON MILLER: Are you not  
22 willing to mediate? Do you want to be dismissed

1 for being unwilling to mediate?

2 MS. HIRAO: I'm just telling you that  
3 it was wasted time then June 15th.

4 CHAIRPERSON MILLER: Okay. We heard  
5 your frustration. We heard your frustration.  
6 And we balanced it and decided that we are not  
7 going to dismiss this party at this time. So you  
8 need to move forward. And I want to give our  
9 Investigators enough leeway so that they don't  
10 have to do unnecessary work.

11 So the Protest Hearing is scheduled  
12 for July --

13 MEMBER ALBERTI: 22nd.

14 MS. HENDERSON: 22nd.

15 CHAIRPERSON MILLER: -- 22nd, so if you  
16 are going to mediate and come up with a  
17 settlement agreement, I would think it would have  
18 to be before three weeks before that date. I'm  
19 just suggesting that would be a good date, but  
20 what -- can you come up with a date?

21 MS. HIRAO: With the mediation date  
22 that the Board is proposing, then the second

1 mediation date, how will this impact the current  
2 Protest Hearing that is scheduled on July 22nd?  
3 Will it push it back?

4 CHAIRPERSON MILLER: No. The hearing  
5 is scheduled for the 22nd.

6 MS. HIRAO: All right.

7 CHAIRPERSON MILLER: So and our  
8 Investigators go do their reports a week before.  
9 And we don't want them to waste time if you are  
10 going to come in with a settlement agreement,  
11 because we would rather they be doing something  
12 else in your community.

13 MS. HENDERSON: The first date that we  
14 are -- that I would suggest would be July 1st.

15 CHAIRPERSON MILLER: Okay.

16 MS. HENDERSON: But again, I'm open to  
17 any date that the applicant would proffer and we  
18 will make ourselves available.

19 MS. HIRAO: I will need to confer with  
20 co-counsel, Mr. Pascal. I do not have his  
21 calendar with me, so I would like to commit to a  
22 date today, but without knowing his schedule, I

1 don't want to --

2 CHAIRPERSON MILLER: Okay. What I  
3 would like to do, I think July 1st sounds like a  
4 good date, but why don't you let us know. Let  
5 Martha Jenkins know before close of business what  
6 that date will be for sure.

7 MS. HIRAO: All right.

8 MS. HENDERSON: Okay.

9 MS. HIRAO: July 2nd -- 1st at what  
10 time?

11 CHAIRPERSON MILLER: Oh, I'm not  
12 proposing it. Ms. Henderson proposed it.

13 MS. HENDERSON: July 1st at any time of  
14 your choosing, we will make ourselves available.

15 MEMBER ALBERTI: All right. I think  
16 what is being proposed is that the parties need  
17 to negotiate a new date.

18 MS. HENDERSON: Yes.

19 MEMBER ALBERTI: And get back to us by  
20 the close of business today. So --

21 CHAIRPERSON MILLER: Yes.

22 MEMBER ALBERTI: -- let's please leave

1 it there.

2 MS. HIRAO: That's fine.

3 CHAIRPERSON MILLER: Okay.

4 MS. HENDERSON: My final comments that  
5 we feel that there is always value in mediation  
6 and we look forward to speaking with the  
7 applicant to see if we can work out our concerns  
8 to again foreclose on a hearing.

9 MEMBER ALBERTI: Yes, right.

10 CHAIRPERSON MILLER: Okay. Thank you.  
11 Yes, Mr. Rodriguez?

12 MEMBER RODRIGUEZ: Madam Chair? Just  
13 to make sure, Mr. Lee's group of seven has been  
14 dismissed and cannot enter into this negotiation.

15 CHAIRPERSON MILLER: Right. They are  
16 out of it.

17 MEMBER RODRIGUEZ: I want to be clear  
18 on that.

19 CHAIRPERSON MILLER: Unless they --  
20 they can do a Motion for Reconsideration, but  
21 they are out as of now. They are dismissed.

22 MEMBER RODRIGUEZ: Right.

1 CHAIRPERSON MILLER: Okay.

2 MEMBER ALBERTI: Well, let's be clear.

3 Mr. Lee's group can negotiate a settlement

4 agreement. That's always --

5 CHAIRPERSON MILLER: Not --

6 MEMBER ALBERTI: -- on the table.

7 MEMBER SILVERSTEIN: Any group, any

8 individual.

9 MEMBER ALBERTI: They are no longer  
10 part of this protest, but they are --

11 CHAIRPERSON MILLER: As part of this  
12 case. That's all, you're right. That's a  
13 distinction.

14 MEMBER ALBERTI: They can negotiate.  
15 I just want to make sure that is clear for the  
16 record and it's not misunderstood.

17 MEMBER RODRIGUEZ: Okay.

18 MS. HENDERSON: Thank you.

19 MEMBER RODRIGUEZ: Let's clear that up  
20 then.

21 CHAIRPERSON MILLER: Not as a part of  
22 this case though.

1 MEMBER ALBERTI: No.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: Right. They are no  
4 longer part of this protest.

5 MEMBER RODRIGUEZ: Right.

6 MEMBER ALBERTI: That's not what I  
7 said.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: I said that they can  
10 go forward and negotiate a settlement agreement  
11 at any time.

12 MS. HIRAO: So once we agree upon a  
13 time, if Mr. Pascal is also available on July 1st,  
14 how do we communicate this to the Board, by  
15 email?

16 CHAIRPERSON MILLER: Communicate with  
17 Ms. Jenkins.

18 MS. HIRAO: Okay.

19 CHAIRPERSON MILLER: You can  
20 communicate by email, but, you know, given  
21 communication --

22 MS. HIRAO: Yes.

1 CHAIRPERSON MILLER: -- problems, I  
2 think you should also confirm by phone, so that,  
3 you know, there is no misunderstanding.

4 MS. HIRAO: Yes.

5 MS. HENDERSON: Chairman Miller, would  
6 you remind us of what Ms. Jenkins' phone number  
7 is?

8 CHAIRPERSON MILLER: Ms. Jenkins. Do  
9 you have a card?

10 MEMBER ALBERTI: Yes. I think it is  
11 best if both parties acknowledge the date by  
12 communicating to Ms. Jenkins, however, whatever  
13 means they choose to do so.

14 MS. HENDERSON: Absolutely.

15 CHAIRPERSON MILLER: We will be  
16 looking for it in writing to make sure that we  
17 have a date in writing.

18 Okay. Are we all set? Thank you very  
19 much.

20 MS. HENDERSON: Thank you.

21 MS. HIRAO: Thank you.

22 CHAIRPERSON MILLER: Good luck. Okay.



1 (Whereupon, the Protest (Status)  
2 Hearing in the above-entitled matter was  
3 concluded at 10:36 a.m.)  
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11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**A**

a.m 2:2 8:1,2 33:3  
**ABC** 12:19  
**able** 15:8  
**above-entitled** 7:22  
 33:2  
**ABRA** 16:11,19 17:6  
**absence** 13:1  
**Absolutely** 32:14  
**abstaining** 12:1  
**accept** 22:19  
**acknowledge** 32:11  
**acting** 18:18  
**actual** 16:4  
**add** 19:17  
**additional** 7:2 9:6,16  
**Additionally** 14:11  
**address** 13:9 16:7  
**advisement** 22:5  
**agree** 22:13,22 23:12  
 31:12  
**agreeable** 14:8 17:20  
**agreed** 24:17  
**agreement** 26:17 27:10  
 30:4 31:10  
**ahead** 7:12 22:15  
**Alberti** 1:17 5:2,5,9,13  
 5:16 10:4 11:15,16  
 22:6,8,11,19,21 23:3  
 23:6,9,16,19 24:12,15  
 26:13 28:15,19,22  
 29:9 30:2,6,9,14 31:1  
 31:3,6,9 32:10  
**Alberti's** 23:13  
**Alcoholic** 1:2,12,13  
**allow** 10:1,2  
**ANC** 3:4,14 4:2,12,18  
 8:9 12:11,13,14 13:9  
 13:13,14  
**ANC-5D** 1:7 2:7 4:15  
 8:6  
**anybody** 5:18 8:16  
 11:17  
**apparently** 12:19 13:19  
**appear** 11:7,11 17:3  
**appeared** 9:5 13:21,21  
**applicant** 2:13 8:21  
 13:16 16:2 27:17 29:7  
**applicant's** 13:18 24:20  
**application** 1:9 2:7 8:8  
**appreciate** 7:14,17  
**argue** 8:21 15:21  
**argument** 20:15 21:15  
**arrived** 10:22  
**ascertain** 14:7 15:9  
 17:20 19:3  
**assert** 21:11  
**attempt** 8:17 24:7

**attend** 12:17,21  
**attorneys** 20:17  
**available** 24:21 27:18  
 28:14 31:13  
**aware** 5:19 6:18  
**aye** 11:20,21

**B**

**back** 14:6 19:16 27:3  
 28:19  
**balanced** 26:6  
**based** 12:16  
**Beg** 3:22  
**beginning** 18:14  
**behalf** 13:16  
**believe** 8:21  
**beset** 18:19  
**best** 32:11  
**Beverage** 1:2,12,13  
**Bladensburg** 1:7 2:6  
 8:5  
**Board** 1:2,12 2:12 3:10  
 3:10 9:2,22 11:10  
 12:4 13:8 18:17 22:17  
 23:15 26:22 31:14  
**brief** 21:3  
**bring** 6:21 9:15  
**BROOKS** 1:17  
**Building** 1:13  
**business** 13:3 20:14  
 28:5,20

**C**

**calendar** 17:2 27:21  
**call** 8:18 9:10,11,15  
 11:2 13:20 14:15,16  
 14:17 15:4 16:9 17:17  
 19:1,11  
**called** 10:21  
**card** 32:9  
**case** 1:8 2:3,4,4 4:18  
 7:11,20 8:4,12 13:15  
 30:12,22  
**cases** 7:9,12 14:2 21:1  
**cause** 7:12 11:10,12  
 12:19 20:9  
**certainly** 21:20  
**Chair** 4:17 9:1 16:6  
 23:10 29:12  
**Chairman** 7:15 13:7  
 20:20 32:5  
**Chairperson** 1:14,16  
 2:3,14,17,20 3:1,13  
 3:16,20 4:1,6,10,15  
 4:19,22 5:4,17 6:3,7  
 6:10,13,17 7:6,16,19  
 8:3,11,15,20 9:9,13  
 9:19 10:3,7,12,17,20

11:16,22 13:5,14 16:8  
 17:8 18:12 19:5,15  
 20:3,7,11,22 21:4,18  
 21:22 22:3,7,10,20,22  
 23:4,7,11,18,21 24:2  
 24:14 25:2,6,11,15,19  
 25:21 26:4,15 27:4,7  
 27:15 28:2,11,21 29:3  
 29:10,15,19 30:1,5,11  
 30:21 31:2,8,16,19  
 32:1,8,15,22

**chance** 23:14  
**change** 17:1  
**changing** 17:5  
**checked** 14:5 18:10  
**choose** 32:13  
**choosing** 28:14  
**citizen** 4:3,5,6  
**claim** 17:4  
**clarify** 17:12  
**clear** 12:14 13:17 21:8  
 23:13 24:22 29:17  
 30:2,15,19  
**clearer** 19:1  
**clearly** 13:12 16:14 17:6  
 19:6

**close** 13:3 20:13 21:21  
 28:5,20  
**co-counsel** 27:20  
**colleague** 4:14  
**COLUMBIA** 1:1  
**come** 6:5 15:19 17:19  
 26:16,20 27:10

**comes** 7:13  
**comments** 10:16 16:7  
 29:4  
**commission** 13:10  
**commissioner** 13:13  
**commit** 27:21  
**commitment** 25:7  
**communicate** 22:17  
 31:14,16,20  
**communicating** 32:12  
**communication** 16:21  
 18:20 21:11 31:21  
**communications** 18:16  
 19:3

**community** 27:12  
**complete** 11:2  
**concerns** 19:22 29:7  
**concluded** 33:3  
**confer** 27:19  
**confirm** 32:2  
**confused** 5:3 15:3  
**confusion** 13:15,20  
 14:3 15:5  
**consider** 9:2  
**consideration** 25:5  
**considered** 9:7

**contacting** 8:19  
**continue** 15:22 18:15  
**Control** 1:2,12,13  
**conversation** 18:22  
**conversations** 18:1,1  
**convinced** 21:8  
**copy** 13:4  
**correct** 8:22 14:21,21  
**couple** 25:8  
**critical** 16:15 20:8  
**crystal** 12:14  
**current** 27:1

**D**

**D.C** 1:14 12:19  
**Darlene** 3:7,18  
**date** 6:2 14:7,10,15  
 15:10,10,17,20 16:21  
 16:22 17:1,7,21 19:4  
 19:11,13 22:13,16  
 23:1 24:11,17 26:18  
 26:19,20,21 27:1,13  
 27:17,22 28:4,6,17  
 32:11,17  
**dated** 16:13  
**dates** 14:3 15:6,7 16:15  
 17:5,19 19:1,14  
**day** 21:21  
**days** 12:5  
**decide** 24:10  
**decided** 26:6  
**defer** 23:16  
**denial** 11:9  
**designated** 11:7  
**different** 18:22 19:17  
**discretion** 11:10  
**dismiss** 6:16 7:5 9:3  
 11:6,13 12:9 13:19  
 18:7 19:7 22:12 24:18  
 26:7  
**dismissal** 11:9 12:5  
 24:9  
**dismissed** 21:16 25:17  
 25:22 29:14,21  
**dismissing** 11:19  
**disputing** 16:21  
**distinction** 30:13  
**DISTRICT** 1:1  
**doing** 20:16 21:17  
 27:11  
**DONALD** 1:17  
**due** 13:3 20:13

**E**

**earlier** 23:1  
**effort** 24:22  
**either** 24:18  
**email** 16:12,19 17:6

19:7,8,19 24:4 31:15  
31:20  
**emails** 5:22 16:14 17:22  
18:4,5,6,8 21:7  
**enter** 29:14  
**entitled** 20:18  
**establish** 5:14  
**event** 7:7 11:4 20:1,8  
**events** 16:15  
**exchange** 16:22 17:19  
**exchanges** 17:5  
**exchanging** 5:22  
**excusable** 15:21  
**Excuse** 4:17  
**excused** 13:1  
**expected** 15:19  
**experience** 24:6  
**explained** 18:3  
**exploring** 15:7  
**extensive** 18:22

---

**F**


---

**fact** 15:9,17  
**failure** 11:6,11 12:17  
**faith** 13:22 18:14,19  
24:7  
**far** 5:22  
**favor** 11:19  
**feel** 29:5  
**file** 18:9  
**filed** 12:4  
**files** 16:11  
**final** 29:4  
**fine** 23:3 29:2  
**finish** 14:22  
**Firm** 2:12  
**first** 13:8 22:12 27:13  
**five** 6:22 7:3 9:8  
**Fletcher** 21:14  
**fly** 20:16  
**focus** 15:8  
**foreclose** 16:4 29:8  
**forth** 14:6 16:14 17:2,7  
19:16  
**forward** 16:1,2 21:14  
26:8 29:6 31:10  
**frustration** 26:5,5  
**fulfill** 6:21 7:3 9:6  
**Furthermore** 15:11

---

**G**


---

**gear** 23:7  
**give** 26:8  
**given** 31:20  
**glitch** 21:11  
**go** 19:15 27:8 31:10  
**going** 8:4 10:2 19:21  
26:7,16 27:10

**good** 2:11 3:9,10,12  
11:10,12 12:19 13:21  
18:14,18 20:9,16 24:7  
26:19 28:4 32:22  
**group** 3:5 4:7,8,11,16  
5:6,7 6:16,22 7:3,4  
9:3,4,7,8,8 10:11 11:1  
11:2,6,20 12:16 13:13  
13:19,21 15:15 18:18  
29:13 30:3,7

---

**H**


---

**Habteselassie** 2:15,16  
2:19,19  
**happen** 24:3  
**Harrison** 3:19  
**hear** 20:9 24:6  
**heard** 12:12 16:20 26:4  
26:5  
**hearing** 1:7,13 2:4 5:12  
5:20 6:1,20 7:12 9:5  
9:16,17 12:13 14:10  
14:15 15:5,9 16:5,16  
16:17 17:17 19:4,14  
20:14,19 22:14,15  
23:2 26:11 27:2,4  
29:8 33:2

**HECTOR** 1:18

**held** 15:17

**Henderson** 3:4,4,9,14  
3:15 4:3,8,9,13,21 6:8  
6:11 7:14,17 8:9,9,14  
8:17 9:20,21 10:5,10  
10:15,19 12:10 13:6,7  
14:12,13,16,22 15:2,4  
16:12 17:11,16 18:13  
19:9,10,12 20:20 21:2  
21:6,19 22:2,18 24:19  
25:4,9 26:14 27:13,16  
28:8,12,13,18 29:4  
30:18 32:5,14,20

**Henderson's** 17:4

**hiccup** 18:15

**Hirao** 2:11,11,22 4:17  
5:7,11,15,19 6:6,15  
6:19 7:21 8:7,7 9:1,11  
9:14 12:8 14:18,21  
16:6,9 17:15,15,16,18  
19:6,11,13,20 20:6,8  
20:12 21:6,20 25:13  
25:18,20 26:2,21 27:6  
27:19 28:7,9 29:2  
31:12,18,22 32:4,21

**hope** 6:11

**hour** 19:21

---

**I**


---

**identify** 2:10

**Imani** 15:12 16:13  
**impact** 27:1  
**important** 20:1  
**individual** 7:3 9:6 30:8  
**individuals** 9:18  
**information** 6:4,9  
**instructed** 9:14  
**interest** 24:7  
**intermittent** 18:19  
**introduce** 3:2  
**Investigators** 23:5 26:9  
27:8

**issue** 5:1 13:9 18:10

**issued** 16:10

**issues** 18:20 19:22

---

**J**


---

**JAMES** 1:19

**Jenkins** 28:5 31:17

32:6,8,12

**July** 16:17 26:12 27:2

27:14 28:3,9,13 31:13

**June** 1:11 5:21,21

12:18 15:9,18 16:13

16:16,17,19 17:3,6

19:21 25:14 26:3

**junk** 18:9

---

**K**


---

**Kathy** 3:4 8:9

**kind** 10:7

**know** 5:18 6:6 16:4 18:2

18:10 19:18 21:10

24:3,5,22 28:4,5

31:20 32:3

**knowing** 27:22

**known** 9:4

---

**L**


---

**Law** 2:12

**Laws** 12:20

**leave** 22:16 28:22

**Lee** 5:8,18 6:20 7:2,13

8:12,18 9:4 10:22

16:12 20:6,7

**Lee's** 29:13 30:3

**leeway** 26:9

**let's** 28:22 30:2,19

**letter** 16:10,11

**level** 24:9

**license** 1:8,10 2:6,8

**light** 11:4

**Liquors** 1:6 2:5,16 8:5

**located** 2:5 8:5

**long** 21:5

**longer** 30:9 31:4

**look** 16:2 29:6

**looking** 32:16

**luck** 32:22

---

**M**


---

**ma'am** 17:12

**Madam** 4:17 9:1 16:6

23:10 29:12

**major** 7:7

**Martha** 28:5

**matter** 1:5 7:22 14:6

15:21 18:6,7,7 23:14

33:2

**mean** 3:10 9:8,22 19:16

20:4 23:5 24:11

**means** 32:13

**mediate** 24:8 25:8,22

26:1,16

**mediated** 25:13,16

**mediation** 5:21 6:2 9:15

12:17,21 14:19 15:6

15:10,17 16:16,21

17:1,3,7,21 19:13,20

20:2,5,6 26:21 27:1

29:5

**meet** 24:17

**meeting** 1:3 16:2

**member** 1:17,17,18,18

1:19 3:7,9,12 4:4,5,7

5:2,5,9,13,16 10:4,9

11:15 14:11,12,14,18

15:1,3 22:4,6,8,11,21

23:3,6,9,10,12,16,19

23:22 24:12,15 26:13

28:15,19,22 29:9,12

29:17,22 30:2,6,7,9

30:14,17,19 31:1,3,5

31:6,9 32:10

**members** 2:12 3:10,11

13:8,22 15:14

**mentioned** 6:2

**met** 1:13

**MIKE** 1:18

**Miles** 3:18

**Miles-Harrison** 3:6,7,18

3:22 4:5

**Miller** 1:14,16 2:3,14,17

2:20 3:1,13,16,20 4:1

4:6,10,19,22 5:2,4,17

6:3,7,10,13,17 7:6,15

7:16,19 8:3,11,15,20

9:9,13,19 10:3,7,12

10:17,20 11:16,22

13:5,8 16:8 17:8

18:12 19:5,15 20:3,7

20:11,20,22 21:4,18

21:22 22:3,6,7,10,20

22:22 23:4,7,11,18,21

24:2,12,14 25:2,6,11

25:15,19,21 26:4,15

27:4,7,15 28:2,11,21

29:3,10,15,19 30:1,5  
30:11,21 31:2,8,16,19  
32:1,5,8,15,22  
**minutes** 7:11  
**miscommunication**  
25:1  
**misunderstanding** 32:3  
**misunderstood** 30:16  
**Moreland** 15:12,13  
16:13 18:2 19:8,19  
**morning** 2:12 3:10,12  
6:5 9:2  
**morning's** 6:20  
**motion** 6:15 7:5 9:3  
10:13 11:17 12:1,7,8  
12:16 13:2,19 18:7  
19:7 29:20  
**motions** 8:21  
**move** 11:5,13 15:22  
21:13 26:8  
**mutually** 14:8 17:20

---

**N**


---

**N.E** 2:6 8:5  
**N.W** 1:13  
**name** 2:18 3:17 17:13  
17:14  
**NE** 1:7  
**necessary** 4:14 22:1  
**need** 25:7 26:8 27:19  
28:16  
**needed** 23:19  
**needs** 21:20  
**neglect** 15:21  
**negotiate** 22:16 28:17  
30:3,14 31:10  
**negotiation** 29:14  
**new** 22:13,16 28:17  
**NICK** 1:17  
**nine** 3:5 4:7,8,11 6:16  
9:4,8  
**nine's** 12:17  
**notice** 15:12,13,16,17  
**notified** 12:22 19:18  
**number** 14:6 32:6

---

**O**


---

**occurs** 22:14  
**office** 12:22 16:13 17:2  
**Oh** 2:20 3:6 28:11  
**okay** 2:14,20 3:20 4:7  
4:12,21 5:1,16,17 6:3  
6:10,13 7:6,19,21 8:3  
8:11,15,20 9:13,19  
10:12 11:18 12:6 13:5  
15:1 16:8 17:8 18:12  
19:5 20:3,7,11 22:3  
23:6,18 24:2,18 25:2

25:15,19 26:4 27:15  
28:2,8 29:3,10 30:1  
30:17 31:2,8,18 32:18  
32:22  
**once** 31:12  
**open** 24:20 27:16  
**opinion** 24:16  
**opportunity** 20:15  
21:13  
**oppose** 13:18  
**opposed** 12:1  
**opposition** 13:2 20:13  
20:18  
**oral** 7:5 9:2 20:14 21:15  
**order** 7:8 8:12 23:13  
**ounce** 20:9  
**outside** 5:12  
**owner** 2:16

---

**P**


---

**P-R-O-C-E-E-D-I-N-G-S**  
2:1  
**p.m** 16:16,18  
**pardon** 3:22  
**part** 4:8,10 30:10,11,21  
31:4  
**participated** 18:14  
**parties** 7:1 14:1,1 23:14  
24:16 28:16 32:11  
**party** 4:20 11:6 12:11  
12:15 15:15 24:18  
25:16 26:7  
**Pascal** 2:13 17:17 27:20  
31:13  
**pass** 7:10  
**passed** 8:12  
**passes** 12:2  
**penalize** 18:18  
**pending** 6:15  
**people** 9:12  
**person** 6:21 9:16 11:7  
**phone** 32:2,6  
**place** 12:18 16:9 19:21  
**planning** 6:5  
**please** 17:12 28:22  
**point** 10:21 19:18  
**possible** 9:22  
**possibly** 18:9  
**prepare** 20:15  
**prepared** 4:15 21:15  
**present** 1:15 5:9 17:18  
**presented** 9:6  
**presiding** 1:14  
**prior** 20:18 23:19  
**problems** 32:1  
**proceed** 20:10  
**proffer** 27:17  
**properly** 16:1

**proposed** 6:1 28:12,16  
**proposing** 26:22 28:12  
**protect** 10:10,13  
**protest** 1:6 2:4 7:5 11:9  
12:9,12 13:11 16:15  
16:17 18:7 19:14  
20:10 22:14,15 23:20  
26:11 27:2 30:10 31:4  
33:1  
**protestant** 12:20  
**protestants** 16:1 22:12  
**protested** 4:18  
**protestors** 23:4  
**provide** 12:3  
**proxy** 10:1  
**pursuant** 11:5  
**push** 27:3

---

**Q**


---



---

**R**


---

**rare** 24:3  
**ready** 2:9 25:9,11  
**really** 19:17 23:5 25:7  
**reasonable** 23:22  
**recall** 7:20 8:4 14:4  
**receive** 15:11,15,16  
17:9 18:6,11 20:18  
21:10  
**received** 13:4 16:20  
18:4,8 19:6 20:13  
21:8  
**recommendation** 23:13  
**Reconsideration** 10:14  
29:20  
**record** 2:10 8:1 12:10  
13:11 30:16  
**Reeves** 1:13  
**references** 12:12  
**reflect** 12:10 13:11  
**Reg** 11:5  
**regard** 9:21 17:22  
**regarding** 6:9 13:20  
14:3 15:6 19:9  
**registered** 16:1  
**reinstated** 15:22  
**reinstatement** 12:4  
**rely** 19:2  
**remind** 32:6  
**renew** 1:9 2:7  
**repeat** 2:17  
**reports** 27:8  
**represent** 4:16  
**representation** 17:10  
**representative** 11:8  
13:12 16:3  
**represented** 5:8 9:3  
11:3 12:9 23:15

**representing** 2:13 4:11  
5:6 13:13,14  
**request** 12:3 18:17  
**requested** 9:2  
**require** 12:20 22:13  
**required** 6:20 13:22  
**requirement** 6:22 7:4  
**requirements** 9:7  
**resident** 3:7  
**respectfully** 15:20  
18:17 22:18  
**respond** 20:16  
**responses** 21:9  
**responsive** 18:3  
**result** 11:8  
**resumed** 8:1  
**Retailer** 1:7  
**review** 20:19  
**right** 4:12,19 6:17,18  
7:19 8:20 9:13 10:9  
10:17,20 19:12 23:9  
27:6 28:7,15 29:9,15  
29:22 30:12 31:3,5  
**Risa** 2:11 8:7 17:15  
**rises** 24:8  
**Road** 1:7 2:6 8:5  
**Rodriguez** 1:18 3:12  
10:9 23:10,12 29:11  
29:12,17,22 30:17,19  
31:5  
**Roll** 9:10,11,15 11:2  
13:20 14:15,16,17  
15:4 16:9 17:17 18:22  
19:11  
**room** 1:13 5:12  
**rules** 10:2 12:3  
**Ruthanne** 1:14,16

---

**S**


---

**saying** 16:22  
**says** 11:8 21:7  
**schedule** 27:22  
**scheduled** 7:9 26:11  
27:2,5  
**second** 11:14,15 12:8  
13:18 26:22  
**seconded** 11:17  
**see** 4:13,20 7:13 8:12  
15:16 16:3 29:7  
**seen** 5:11  
**send** 15:13  
**sent** 16:12,19  
**serve** 10:1  
**session** 5:22 6:2 12:17  
12:21 14:19  
**set** 17:2 32:18  
**sets** 16:14  
**setting** 17:7

**settlement** 26:17 27:10  
 30:3 31:10  
**settlements** 6:1  
**seven** 5:6,7 7:4 10:11  
 11:1,6,20 29:13  
**share** 17:13  
**SHORT** 1:19 23:22  
**show** 6:21 7:11  
**shown** 8:13 11:10,12  
**side** 3:2  
**sides** 14:7  
**SILVERSTEIN** 1:18  
 14:12,14,18 15:1,3  
 22:4 30:7  
**sir** 2:18  
**smooth** 24:22  
**solely** 19:2  
**somewhat** 7:7  
**sorry** 3:6,16 4:7 17:12  
**sounds** 23:22 24:6 28:3  
**speak** 11:18 14:14  
**speaking** 14:19 29:6  
**spell** 2:22  
**spent** 19:21  
**spoke** 15:12,14  
**standing** 10:11  
**Stanton** 1:6 2:5,16 8:4  
**status** 1:7 2:4 5:20 6:1  
 6:20 7:12 9:5,16,17  
 10:21 12:13 13:21  
 16:16 19:13 33:1  
**Street** 1:13  
**subsequent** 19:3  
**sufficient** 9:12  
**suggest** 22:11 23:1  
 27:14  
**suggesting** 26:19  
**suggestion** 22:9,21  
**suggestions** 24:21  
**Suite** 1:14  
**sure** 2:11 5:4 14:20  
 28:6 29:13 30:15  
 32:16  


---

**T**  


---

**t/a** 1:6  
**table** 30:6  
**take** 7:11 22:4  
**talked** 5:18 8:16 18:9  
**telling** 26:2  
**terms** 19:22 23:17  
**thank** 2:21 5:16 7:20  
 10:17 13:7 22:2 24:19  
 25:1 29:10 30:18  
 32:18,20,21  
**thing** 10:13 24:13  
**things** 24:4  
**think** 5:21 6:13 7:8 10:2  
 10:3,6,21 14:2 15:5

18:16,21 21:22 23:17  
 24:8 26:17 28:3,15  
 32:2,10  
**three** 26:18  
**time** 23:17 25:18 26:3,7  
 27:9 28:10,13 31:11  
 31:13  
**times** 14:7 19:16  
**today** 5:10,19,20 21:12  
 21:15 22:16 27:22  
 28:20  
**told** 21:14  
**transcript** 14:4,5  
**transmitted** 19:8 24:4  
**tried** 10:19  
**tries** 14:8  
**trying** 10:5,6 17:19  
**two** 25:6  


---

**U**  


---

**understand** 14:9 17:4  
 21:2  
**understanding** 17:9  
**unnecessary** 26:10  
**unsuccessful** 8:18  
**unwilling** 26:1  


---

**V**  


---

**value** 29:5  
**vote** 13:10 24:17  


---

**W**  


---

**want** 13:11,16 14:19  
 19:17 25:22 26:8 27:9  
 28:1 29:17 30:15  
**wanted** 5:13 12:13  
**warn** 24:15  
**Washington** 1:14  
**waste** 27:9  
**wasted** 25:18 26:3  
**way** 8:13  
**week** 22:15 23:1 27:8  
**weeks** 25:8 26:18  
**Weiss** 2:13  
**went** 8:1 14:6  
**weren't** 9:12  
**willing** 25:22  
**wish** 11:17  
**withdraw** 10:15  
**work** 16:3 26:10 29:7  
**wouldn't** 18:16  
**writing** 21:20 32:16,17  
**wrote** 15:7  


---

**X**  


---

**Y**  


---

**yesterday** 13:3 20:14

**Yoef** 1:6  
**Yonathan** 2:15  


---

**Z**  


---

**zillion** 19:16  


---

**0**  


---

**1**  


---

**1:00** 16:16  
**10** 12:5  
**10:16** 8:2  
**10:19** 10:22  
**10:36** 33:3  
**1044** 1:7 2:5 8:5  
**14th** 1:13  
**15-PRO-00038** 1:8 2:5  
 8:4  
**15th** 5:21 12:18 14:10  
 15:9,18 16:11,16 17:3  
 19:4,21 25:14 26:3  
**1603.3** 11:5  
**1st** 27:14 28:3,9,13  
 31:13  


---

**2**  


---

**2000** 1:13  
**20009** 1:14  
**2015** 1:11 16:10,17,18  
**22** 16:17  
**22nd** 26:13,14,15 27:2  
 27:5  
**24** 1:11 16:17  
**26** 16:10  
**2nd** 16:13,19 17:6 28:9  


---

**3**  


---

**4**  


---

**4:30** 16:18  
**400S** 1:14  


---

**5**  


---

**5D** 13:15  
**5D02** 3:8  
**5D05** 3:5 8:10 13:14  
**5th** 5:21  


---

**6**  


---

**6-0-0** 12:2  


---

**7**  


---

**71601** 1:8 2:6  


---

**8**  


---

**9**  


---

**9:30** 7:9 10:22 16:17

**9:52** 2:2  
**9:57** 8:1